

House Amendment to
Senate File 2293

S-5183

1 Amend Senate File 2293, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, line 34, by striking <premium> and
4 inserting <premium, less claims paid,>

5 2. By striking page 11, line 8, through page 15,
6 line 14, and inserting:

7 <Sec. _____. Section 514J.102, subsections 1 and 10,
8 Code Supplement 2011, are amended to read as follows:

9 1. "*Adverse determination*" means a determination
10 by a health carrier that an admission, availability
11 of care, continued stay, or other health care service
12 that is a covered benefit has been reviewed and,
13 based upon the information provided, does not meet the
14 health carrier's requirements for medical necessity,
15 appropriateness, health care setting, level of
16 care, or effectiveness, and the requested service or
17 payment for the service is therefore denied, reduced,
18 or terminated. "*Adverse determination*" includes a
19 denial of coverage for a dental care service that is
20 a covered benefit that has been reviewed and, based
21 upon the information provided, does not meet the health
22 carrier's requirements for medical necessity, and
23 the requested service or payment for the dental care
24 service is therefore denied, reduced, or terminated,
25 in whole or in part. "*Adverse determination*" does not
26 include a denial of coverage for a service or treatment
27 specifically listed in plan or evidence of coverage
28 documents as excluded from coverage.

29 10. "*Covered benefits*" or "*benefits*" means those
30 health care services and dental care services to which
31 a covered person is entitled under the terms of a
32 health benefit plan.

33 Sec. _____. Section 514J.102, Code Supplement 2011,
34 is amended by adding the following new subsection:

35 NEW SUBSECTION. 11A. "*Dental care services*" means
36 services for diagnostic, preventive, maintenance, and
37 therapeutic dental care that is provided under chapter
38 153.>

39 3. Page 18, after line 12 by inserting:

40 <Sec. _____. Section 522B.12, Code 2011, is amended
41 by adding the following new subsection:

42 NEW SUBSECTION. 5. A person who enrolls in a
43 qualified health benefit plan offered in this state
44 pursuant to federal law has the option to utilize the
45 services of an insurance producer licensed pursuant
46 to chapter 522B. Qualified health benefit plans
47 offered pursuant to federal law shall pay licensed
48 insurance producers for their services at a level that
49 is commensurate with the compensation paid to insurance
50 producers for the placement, renewal, or enrollment of

1 persons in health benefit plans offered pursuant to
2 state law.>

3 4. Page 19, after line 14 by inserting:
4 <Sec. _____. NEW SECTION. 522D.1 Definitions.

5 As used in this chapter, unless the context
6 otherwise requires:

7 1. "*Commissioner*" means the commissioner of
8 insurance.

9 2. "*Navigator*" means a public or private entity
10 or an individual that is qualified and licensed, if
11 appropriate, to engage in the activities and meet the
12 standards described in 45 C.F.R. § 155.210.

13 Sec. _____. NEW SECTION. 522D.2 License required.

14 A person shall not act as a navigator in this state
15 unless the person is licensed by the commissioner as
16 required in this chapter.

17 Sec. _____. NEW SECTION. 522D.3 Actions prohibited.

18 A navigator shall not perform the functions of a
19 person required to be licensed as an insurance producer
20 under chapter 522B unless the navigator is licensed
21 as a navigator pursuant to this chapter and as an
22 insurance producer pursuant to chapter 522B.

23 Sec. _____. NEW SECTION. 522D.4 Application for
24 examination.

25 1. An individual applying for a navigator license
26 shall pass a written examination. The examination
27 shall test the knowledge of the individual concerning
28 the duties and responsibilities of a navigator and the
29 insurance laws and regulations of this state. The
30 commissioner shall adopt rules pursuant to chapter
31 17A related to the development and conduct of the
32 examination.

33 2. The commissioner may make arrangements,
34 including contracting with an outside testing service
35 or other appropriate entity, for administering
36 examinations and collecting fees.

37 3. An individual applying for an examination shall
38 remit a nonrefundable fee as established by rule of the
39 commissioner.

40 4. An individual who fails to appear for the
41 examination as scheduled or fails to pass the
42 examination shall reapply for an examination and remit
43 all required fees and forms before being rescheduled
44 for another examination.

45 Sec. _____. NEW SECTION. 522D.5 Application for
46 license.

47 1. A person applying for a navigator license shall
48 make application to the commissioner on an application
49 form approved by the commissioner and declare under
50 penalty of refusal, suspension, or revocation of the

1 license that the statements made on the application
2 are true, correct, and complete to the best of the
3 individual's knowledge and belief. Before approving
4 the application, the commissioner shall find all of the
5 following:

6 a. The individual is at least eighteen years of
7 age.

8 b. The individual has not committed any act that is
9 a ground for denial, suspension, or revocation as set
10 forth in section 522D.7.

11 c. The individual has paid the license fee, as
12 established by the commissioner by rule.

13 d. The individual has successfully completed the
14 initial training and education program for a license as
15 established by the commissioner by rule.

16 e. The individual has successfully passed the
17 examination as provided in section 522D.4.

18 f. In order to protect the public interest, the
19 individual has the requisite character and competence
20 to receive a license as a navigator.

21 2. A public or private entity acting as a navigator
22 may elect to obtain a navigator license. Application
23 shall be made using the application form approved by
24 the commissioner. Prior to approving the application,
25 the commissioner shall find both of the following:

26 a. The entity has paid the appropriate fees.

27 b. The entity has designated a licensed navigator
28 responsible for the entity's compliance with this
29 chapter.

30 Sec. _____. **NEW SECTION. 522D.6 License.**

31 1. A person who meets the requirements of sections
32 522D.4 and 522D.5, unless otherwise denied licensure
33 pursuant to section 522D.7, shall be issued a navigator
34 license. A navigator license is valid for three years.

35 2. A navigator license remains in effect unless
36 revoked or suspended as long as all required fees are
37 paid and continuing education requirements are met by
38 any applicable due date. A navigator is required to
39 complete continuing education requirements required by
40 law in order to be eligible for license renewal.

41 3. A licensed navigator who is unable to comply
42 with license renewal procedures due to military service
43 or other extenuating circumstances may request a waiver
44 of those procedures. The licensed navigator may also
45 request a waiver of any examination requirement or any
46 other penalty or sanction imposed for failure to comply
47 with renewal procedures.

48 4. The license shall contain the licensee's
49 name, address, personal identification number, the
50 date of issuance, the expiration date, and any other

1 information the commissioner deems necessary.

2 5. A licensee shall inform the commissioner by any
3 means acceptable to the commissioner of a change of
4 legal name or address within thirty days of the change.
5 Failure to timely inform the commissioner of a change
6 of legal name or address may result in a penalty as
7 specified in section 522D.7.

8 6. The commissioner shall require by rule that
9 a licensed navigator furnish a surety bond or other
10 evidence of financial responsibility that protects all
11 persons against wrongful acts, misrepresentations,
12 errors, omissions, or negligence of the navigator.

13 7. In order to assist with the commissioner's
14 duties, the commissioner may contract with a
15 nongovernmental entity, including the national
16 association of insurance commissioners or any affiliate
17 or subsidiary the national association of insurance
18 commissioners oversees, to perform any ministerial
19 functions, including the collection of fees, related
20 to navigator licensing that the commissioner deems
21 appropriate.

22 Sec. ____ . NEW SECTION. 522D.7 License denial,
23 nonrenewal, or revocation.

24 1. The commissioner may place on probation,
25 suspend, revoke, or refuse to issue or renew a
26 navigator's license or may levy a civil penalty as
27 provided in section 522D.8 for any one or more of the
28 following causes:

29 a. Providing incorrect, misleading, incomplete,
30 or materially untrue information in the license
31 application.

32 b. Violating any insurance laws, or violating any
33 regulation, subpoena, or order of the commissioner or
34 of a commissioner of another state.

35 c. Obtaining or attempting to obtain a license
36 through misrepresentation or fraud.

37 d. Improperly withholding, misappropriating, or
38 converting any moneys or properties received in the
39 course of doing insurance business.

40 e. Intentionally misrepresenting the terms of an
41 actual or proposed insurance contract or application
42 for insurance.

43 f. Having been convicted of a felony.

44 g. Having admitted or been found to have committed
45 any unfair insurance trade practice or fraud.

46 h. Using fraudulent, coercive, or dishonest
47 practices, or demonstrating incompetence,
48 untrustworthiness, or financial irresponsibility
49 in the conduct of business in this state or elsewhere.

50 i. Having a navigator license, or its equivalent,

1 denied, suspended, or revoked in any other state,
2 province, district, or territory.

3 *j.* Forging another's name to an application for
4 insurance or to any document related to an insurance
5 transaction.

6 *k.* Improperly using notes or any other reference
7 material to complete an examination for a navigator
8 license.

9 *l.* Failing to comply with an administrative or
10 court order imposing a child support obligation.

11 *m.* Failing to comply with an administrative or
12 court order related to repayment of loans to the
13 college student aid commission.

14 *n.* Failing to pay state income tax or comply with
15 any administrative or court order directing payment of
16 state income tax.

17 *o.* Failing or refusing to cooperate in an
18 investigation by the commissioner.

19 2. If the commissioner does not renew a license or
20 denies an application for a license, the commissioner
21 shall notify the applicant or licensee and advise,
22 in writing, the licensee or applicant of the reason
23 for the nonrenewal of the license or denial of the
24 application for a license. The licensee or applicant
25 may request a hearing on the nonrenewal or denial. A
26 hearing shall be conducted according to section 507B.6.

27 3. The license of a public or private entity
28 operating as a navigator may be suspended, revoked,
29 or refused if the commissioner finds, after hearing,
30 that an individual navigator licensee's violation was
31 known or should have been known by a partner, officer,
32 or manager acting on behalf of the entity and the
33 violation was not reported to the commissioner and
34 corrective action was not taken.

35 4. In addition to, or in lieu of, any applicable
36 denial, suspension, or revocation of a license, a
37 person, after hearing, may be subject to a civil
38 penalty as provided in section 522D.8.

39 5. The commissioner may conduct an investigation
40 of any suspected violation of this chapter pursuant
41 to section 507B.6 and may enforce the provisions and
42 impose any penalty or remedy authorized by this chapter
43 and chapter 507B against any person who is under
44 investigation for, or charged with, a violation of
45 either chapter even if the person's license has been
46 surrendered or has lapsed by operation of law.

47 6. *a.* In order to assure a free flow of
48 information for accomplishing the purposes of this
49 section, all complaint files, investigation files,
50 other investigation reports, and other investigative

1 information in the possession of the commissioner or
2 the commissioner's employees or agents that relates to
3 licensee discipline are privileged and confidential,
4 and are not subject to discovery, subpoena, or
5 other means of legal compulsion for their release
6 to a person other than the licensee, and are not
7 admissible in evidence in a judicial or administrative
8 proceeding other than the proceeding involving
9 licensee discipline. A final written decision of the
10 commissioner in a disciplinary proceeding is a public
11 record.

12 *b.* Investigative information in the possession
13 of the commissioner or the commissioner's employees
14 or agents that relates to licensee discipline may
15 be disclosed, in the commissioner's discretion, to
16 appropriate licensing authorities within this state,
17 the appropriate licensing authority in another state,
18 the District of Columbia, or a territory or country in
19 which the licensee is licensed or has applied for a
20 license.

21 *c.* If the investigative information in the
22 possession of the commissioner or the commissioner's
23 employees or agents indicates a crime has been
24 committed, the information shall be reported to the
25 proper law enforcement agency.

26 *d.* Pursuant to the provisions of section 17A.19,
27 subsection 6, upon an appeal by the licensee, the
28 commissioner shall transmit the entire record of the
29 contested case to the reviewing court.

30 *e.* Notwithstanding the provisions of section
31 17A.19, subsection 6, if a waiver of privilege has
32 been involuntary and evidence has been received at a
33 disciplinary hearing, the court shall issue an order to
34 withhold the identity of the individual whose privilege
35 was waived.

36 **Sec. ____ . NEW SECTION. 522D.8 Cease and desist**
37 **orders — penalties.**

38 1. A navigator who, after hearing, is found to have
39 violated this chapter, may be ordered to cease and
40 desist from engaging in the conduct resulting in the
41 violation and may be assessed a civil penalty pursuant
42 to chapter 507B.

43 2. If a person does not comply with an order issued
44 pursuant to this section, the commissioner may petition
45 a court of competent jurisdiction to enforce the order.
46 The court shall not require the commissioner to post
47 a bond in an action or proceeding under this section.
48 If the court finds, after notice and opportunity for
49 hearing, that the person is not in compliance with an
50 order, the court may adjudge the person to be in civil

1 contempt of the order. The court may impose a civil
2 penalty against the person for contempt in an amount
3 not less than three thousand dollars but not greater
4 than ten thousand dollars for each violation and may
5 grant any other relief that the court determines is
6 just and proper in the circumstances.

7 Sec. ____ . NEW SECTION. **522D.9 Injunctive relief.**

8 1. A person may bring an action in district court
9 to enjoin another person from acting as a navigator in
10 violation of section 522D.2. However, before bringing
11 an action in district court to enjoin a person pursuant
12 to this section, the person shall file a complaint with
13 the insurance division alleging that another person is
14 acting as a navigator in violation of section 522D.2.

15 2. If the division makes a determination to proceed
16 administratively against the person for a violation
17 of section 522D.2, the complainant shall not bring an
18 action in district court against the person pursuant to
19 this section based upon the allegations contained in
20 the complaint filed with the division.

21 3. If the division does not make a determination
22 to proceed administratively against the person for
23 a violation of section 522D.2, the division shall
24 issue, by ninety days from the date of filing of the
25 complaint, a release to the complainant that permits
26 the complainant to bring an action in district court
27 pursuant to this section.

28 4. The filing of a complaint with the division
29 pursuant to this section tolls the statute of
30 limitations pursuant to section 614.1 as to the alleged
31 violation for a period of one hundred twenty days from
32 the date of filing the complaint.

33 5. Any action brought in district court by a
34 complainant against a person pursuant to this section,
35 based upon the allegations contained in the complaint
36 filed with the division, shall be brought within one
37 year after the ninety-day period following the filing
38 of the complaint with the division, or the date of the
39 issuance of a release by the division, whichever is
40 earlier.

41 6. If the court finds that the person is in
42 violation of section 522D.2 and enjoins the person from
43 acting as a navigator in violation of that section,
44 the court's findings of fact and law, and the judgment
45 and decree, when final, shall be admissible in any
46 proceeding initiated pursuant to section 522D.8 by the
47 commissioner against the person enjoined and the person
48 enjoined shall be precluded from contesting in that
49 proceeding the court's determination that the person
50 acted as a navigator in violation of section 522D.2.

1 Sec. _____. NEW SECTION. **522D.10 Rules.**
2 The commissioner may adopt rules pursuant to
3 chapter 17A as are necessary or proper to carry out the
4 purposes of this chapter.
5 Sec. _____. NEW SECTION. **522D.11 Severability.**
6 If any provision of this chapter or its application
7 to any person or circumstance is held invalid by a
8 court of competent jurisdiction or by federal law,
9 the invalidity does not affect other provisions or
10 applications of the chapter that can be given effect
11 without the invalid provision or application, and to
12 this end the provisions of the chapter are severable
13 and the valid provisions or applications shall remain
14 in full force and effect.
15 Sec. _____. NEW SECTION. **522D.12 Future repeal.**
16 If the federal law requiring the establishment
17 of an exchange in each state is repealed by federal
18 legislation or is ruled invalid by a decision of the
19 United States supreme court, the commissioner shall
20 notify the Iowa Code editor of the effective date of
21 the repeal or the date of the ruling. This chapter
22 is repealed on the effective date of such federal
23 legislation or the date of the United States supreme
24 court decision.>
25 5. Page 21, by striking lines 1 through 12.
26 6. Page 21, by striking lines 17 and 18.
27 7. Page 21, after line 18 by inserting:
28 Sec. _____. EFFECTIVE DATE. The following provision
29 or provisions of this Act take effect July 1, 2013:
30 1. The sections of this Act enacting chapter 522D.>
31 8. By renumbering as necessary.